

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ASJA BAYARD,

Plaintiff,

v.

**CIVIL NO. 1:22-CV-17
(KLEEH)**

**KILOLO KIJAKAZI,
Acting Commissioner of
Social Security,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 30] AND
DISMISSING ACTION WITH PREJUDICE**

On March 2, 2022, the pro se Plaintiff, Asja Bayard ("Plaintiff"), filed a Complaint against the Acting Commissioner of Social Security ("Defendant"). The Court referred the action to United States Magistrate Judge James P. Mazzone (the "Magistrate Judge") for review. On January 10, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny Plaintiff's motion for summary judgment and grant Defendant's motion for summary judgment.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely file objections . . . will result in a waiver of the right to appeal

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from a judgment of this Court based upon such Report and Recommendation." Plaintiff accepted service of the R&R on January 14, 2023. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 30]. Plaintiff's motion for summary judgment is **DENIED** [ECF No. 21]. Defendant's motion for summary judgment is **GRANTED** [ECF No. 28]. This action is **DISMISSED WITH PREJUDICE** and **STRICKEN** from the Court's active docket. The Clerk is directed to enter judgment in favor of Defendant.

It is so **ORDERED**.

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The Clerk is directed to transmit copies of this Order to counsel of record via email and to the pro se Plaintiff via certified mail, return receipt requested.

DATED: February 2, 2023

Tom S Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA